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Experian Information Solutions, Inc.

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 ELETTRA MEEKS, JOSEPH DELACRUZ,  
11 STEPHANIE LAGUNA, AMBER  
12 LEONARD, and BECKY WITT, on behalf of  
themselves and others similarly situated,

13 Plaintiffs,

14 v.

15 EXPERIAN INFORMATION SOLUTIONS,  
16 INC.: MIDWEST RECOVERY SYSTEMS,  
LLC; and CONSUMER ADJUSTMENT  
17 COMPANY, INC.,

18 Defendants.

19 Case No. 3:21-cv-03266-VC  
Assigned to: Judge Vince Chhabria

20  
21 **DECLARATION OF DAVID  
WILLIAMS IN SUPPORT OF  
EXPERIAN INFORMATION  
SOLUTIONS, INC.'S MOTION TO  
COMPEL ARBITRATION**

22 Date: July 29, 2021  
23 Time: 10:00 a.m.  
24 Place: Courtroom 4

## **DECLARATION OF DAVID WILLIAMS**

I, David Williams, declare and state:

3       1. I am over the age of 18 years old. I am the VP, Business Governance for  
4 ConsumerInfo.com, Inc. (“CIC”) in Costa Mesa, California. CIC also does business as Experian  
5 Consumer Services (“ECS”). I have been employed by CIC since June of 2001. I make this  
6 declaration in support of Experian Information Solutions, Inc.’s Motion to Compel Arbitration.  
7 My duties at CIC throughout the course of my employment require that I be familiar with, among  
8 other things, the marketing, advertising and sales of CIC consumer credit products, including  
9 services that consumer enroll in at Experian websites, as well as the Terms of Use governing such  
10 services. Except where otherwise stated, the facts stated in this Declaration are of my own personal  
11 knowledge, including knowledge acquired in the course and scope of my job responsibilities and  
12 through the review of pertinent documents maintained as business records by CIC in the course and  
13 scope of CIC’s business, documents relating to CIC’s internet advertising, and documents relating  
14 to sales of CIC’s credit products and services. If called upon to do so, I could and would  
15 competently testify to the facts stated below.

16        2. CIC/ECS is an affiliate of Experian Information Solutions, Inc. (“EIS”), the named  
17 defendant in the above-captioned lawsuit. CIC and EIS are both wholly-owned subsidiaries of  
18 Experian Holdings, Inc., and the parent company is Experian plc. In this Declaration, I refer to  
19 Experian collectively as CIC, ECS, and EIS.

## **20 | I. FACTS PERTAINING TO ELETRRA MEEKS**

21       3. On November 2, 2018, Ms. Meeks enrolled in CreditWorks<sup>SM</sup>—a free online credit  
22 monitoring service that is offered by Experian. In order to successfully enroll, Ms. Meeks had to  
23 complete two webforms. The first form required Ms. Meeks to enter her personal information—  
24 *i.e.*, her name, address, phone number, and e-mail address. After she did so, Ms. Meeks had to click  
25 the “Submit and Continue” button on the form to continue with the enrollment process. A true and  
26 correct representation of the first webform as it would have appeared when Ms. Meeks enrolled in  
27 CreditWorks<sup>SM</sup> is attached as **Exhibit 1** to this Declaration. Ms. Meeks clicked the “Submit and  
28 Continue” button, and was presented with a second form to complete. I know this to be the case

1 because she would not have been able to successfully enroll in CreditWorks<sup>SM</sup> unless she clicked  
 2 that button.

3       4. The second webform required Ms. Meeks to enter her social security number, date  
 4 of birth, and a username and password. Immediately below the boxes to enter and confirm her  
 5 password, was the following disclosure:

Password	Confirm Password
<input type="password"/>	<input type="password"/>
<p>By clicking "Submit Secure Order": I accept and agree to your <a href="#">Terms of Use Agreement</a>, as well as acknowledge receipt of your <a href="#">Privacy Policy</a> and <a href="#">Ad Targeting Policy</a>.</p> <p>I authorize ConsumerInfo.com, Inc., also referred to as Experian Consumer Services ("ECS"), to obtain my credit report and/or credit score(s), on a recurring basis to:</p> <ul style="list-style-type: none"> <li>• Provide my credit report (and/or credit score) to me for review while I have an account with ECS.</li> <li>• Notify me of other products and services that may be available to me through ECS or through unaffiliated third parties.</li> <li>• Notify me of credit opportunities and advertised credit offers.</li> </ul> <p>I understand that I may withdraw this authorization at any time by <a href="#">contacting ECS</a>.</p>	
<b>Submit Secure Order</b>	

18 A true and correct representation of the second webform as it would have appeared when  
 19 Ms. Meeks enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 2** to this Declaration. The phrase  
 20 "[Terms of Use Agreement](#)" in the disclosure above was off-set in blue text and, if clicked, would  
 21 have presented the consumer with the full text of the agreement. That is, the phrase "Terms of Use  
 22 Agreement" in the disclosure was a full text hyperlink to the Terms of Use. Thus, before clicking  
 23 the "Submit Secure Order" button, the consumer could view the entire text of the Terms of Use  
 24 Agreement by clicking on the blue-highlighted hyperlink "[Terms of Use Agreement](#)." When a  
 25 consumer clicked on the [Terms of Use Agreement](#) hyperlink, an additional window would open  
 26 within the consumer's web browser containing the entire text of the Terms of Use Agreement.  
 27 Immediately below the disclosure containing the full-text hyperlink to the Terms of Use Agreement

was a large purple button that reads: “Submit Secure Order.” The webform, the disclosure, and the “Submit Secure Order” button appeared on a single webpage. After entering her information, Ms. Meeks clicked the “Submit Secure Order” order button, thereby accepting and agreeing to the Terms of Use Agreement. I know this to be the case because she would not have been able to successfully enroll in CreditWorks<sup>SM</sup> unless she clicked that button. A true and correct copy of the Terms of Use that was in effect when Ms. Meeks enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 3** to this Declaration.



A true and correct representation of the webform that would have been presented to Ms. Meeks to add the “Boost” feature to her CreditWorks<sup>SM</sup> subscription is attached as **Exhibit 4** to this Declaration. The phrase “[Experian Terms of Use](#)” in the disclosure above was off-set in blue text and, if clicked, would have presented the consumer with the full text of the agreement. That is, the phrase “Experian Terms of Use” in the disclosure was a full text hyperlink to the Terms of Use.

1 Thus, before clicking the “Let’s Go” button, the consumer could view the entire text of the Terms  
2 of Use by clicking on the blue-highlighted hyperlink “[Experian Terms of Use](#).” When a consumer  
3 clicked on the “[Experian Terms of Use](#)” hyperlink, an additional window would open within the  
4 consumer’s web browser containing the entire text of the Terms of Use Agreement. Ms. Meeks  
5 clicked on the “Let’s Go” button, thereby accepting and re-agreeing to the Terms of Use. I know  
6 this to be the case because she would not have been able to successfully add the “Boost” feature to  
7 her CreditWorks<sup>SM</sup> subscription unless she clicked that button. A true and correct copy of the  
8 Terms of Use that was in effect when Ms. Meeks added the “Boost” feature to her CreditWorks<sup>SM</sup>  
9 subscription is attached as **Exhibit 5** to this Declaration.

10       6.      The Terms of Use Agreement that was in effect when Ms. Meeks enrolled in  
11 CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account,  
12 had a section entitled, “Amendments,” which advised Ms. Meeks that she would be bound by the  
13 then-current Terms of Use Agreement each time she “order[ed], access[ed], or use[d]” any of the  
14 Services or Websites described in the agreement. Since enrolling in CreditWorks<sup>SM</sup>, Ms. Meeks  
15 has continuously used her subscription service, including after the current version of the Terms of  
16 Use came into effect. A true and correct copy of the current (operative) Terms of Use is attached  
17 as **Exhibit 6** to this Declaration.

18       7.      The Terms of Use Agreement that was in effect when Ms. Meeks enrolled in  
19 CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account,  
20 had a provision that allowed her to opt-out of changes to the contract’s arbitration clause. Based  
21 upon Experian’s business records, Experian has no record of Ms. Meeks ever rejecting any  
22 amendment to the arbitration clause in the Terms of Use Agreement.

23       8.      Before filing this lawsuit on May 4, 2021, Ms. Meeks continuously used her  
24 CreditWorks<sup>SM</sup> subscription including, among other things, to obtain reports that would have shown  
25 how the loans at issue in this case were reporting in her Experian credit file.

1           **II. FACTS PERTAINING TO AMBER LEONARD**

2           9. On June 1, 2019, Ms. Leonard enrolled in CreditWorks<sup>SM</sup>. In order to successfully  
 3 enroll, Ms. Leonard had to complete two webforms. The first form required Ms. Leonard to enter  
 4 her personal information—*i.e.*, her name, address, phone number, and e-mail address. After she  
 5 did so, Ms. Leonard had to click the “Submit and Continue” button on the form to continue with  
 6 the enrollment process. A true and correct representation of the first webform as it would have  
 7 appeared when Ms. Leonard enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 7** to this Declaration.  
 8 Ms. Leonard clicked the “Submit and Continue” button, and was presented with a second form to  
 9 complete. I know this to be the case because she would not have been able to successfully enroll  
 10 in CreditWorks<sup>SM</sup> unless she clicked that button.

11          10. The second webform required Ms. Leonard to enter her social security number, date  
 12 of birth, and a username and password. Immediately below the boxes to enter and confirm her  
 13 password, was the following disclosure:

Password	Confirm Password
<input type="password"/>	<input type="password"/>
<p>By clicking "Submit Secure Order": I accept and agree to your <a href="#">Terms of Use</a>  <a href="#">Agreement</a>, as well as acknowledge receipt of your <a href="#">Privacy Policy</a> and <a href="#">Ad Targeting Policy</a>.</p> <p>I authorize ConsumerInfo.com, Inc., also referred to as Experian Consumer Services ("ECS"), to obtain my credit report and/or credit score(s), on a recurring basis to:</p> <ul style="list-style-type: none"> <li>• Provide my credit report (and/or credit score) to me for review while I have an account with ECS.</li> <li>• Notify me of other products and services that may be available to me through ECS or through unaffiliated third parties.</li> <li>• Notify me of credit opportunities and advertised credit offers.</li> </ul> <p>I understand that I may withdraw this authorization at any time by <a href="#">contacting ECS</a>.</p>	
<b>Submit Secure Order</b>	

27          A true and correct representation of the second webform as it would have appeared when  
 28 Ms. Leonard enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 8** to this Declaration. The phrase

1 “**Terms of Use Agreement**” in the disclosure above was off-set in blue text and, if clicked, would  
2 have presented the consumer with the full text of the agreement. That is, the phrase “Terms of Use  
3 Agreement” in the disclosure was a full text hyperlink to the Terms of Use. Thus, before clicking  
4 the “Submit Secure Order” button, the consumer could view the entire text of the Terms of Use  
5 Agreement by clicking on the blue-highlighted hyperlink “**Terms of Use Agreement**. ” When a  
6 consumer clicked on the “**Terms of Use Agreement**” hyperlink, an additional window would open  
7 within the consumer’s web browser containing the entire text of the Terms of Use Agreement.  
8 Immediately below the disclosure containing the full-text hyperlink to the Terms of Use Agreement  
9 was a large purple button that reads: “Submit Secure Order.” The webform, the disclosure, and  
10 the “Submit Secure Order” button appeared on a single webpage. After entering her information,  
11 Ms. Leonard clicked the “Submit Secure Order” order button, thereby accepting and agreeing to  
12 the Terms of Use Agreement. I know this to be the case because she would not have been able to  
13 successfully enroll in CreditWorks<sup>SM</sup> unless she clicked that button. A true and correct copy of the  
14 Terms of Use that was in effect when Ms. Leonard enrolled in CreditWorks<sup>SM</sup> is attached as  
15 **Exhibit 9** to this Declaration.

16       11. The Terms of Use Agreement that was in effect when Ms. Leonard enrolled in  
17 CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account,  
18 had a section entitled, “Amendments,” which advised Ms. Leonard that she would be bound by the  
19 then-current Terms of Use Agreement each time she “order[ed], access[ed], or use[d]” any of the  
20 Services or Websites described in the agreement. Since enrolling in CreditWorks<sup>SM</sup>, Ms. Leonard  
21 has continuously used her subscription service, including after the current version of the Terms of  
22 Use came into effect.

23       12. The Terms of Use Agreement that was in effect when Ms. Leonard enrolled in  
24 CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account,  
25 had a provision that allowed her to opt-out of changes to the contract’s arbitration clause. Based  
26 upon Experian’s business records, Experian has no record of Ms. Leonard ever rejecting any  
27 amendment to the arbitration clause in the Terms of Use Agreement.

1           13. Before filing this lawsuit on May 4, 2021, Ms. Leonard continuously used her  
 2 CreditWorks<sup>SM</sup> subscription including, among other things, to obtain reports that would have shown  
 3 how the loans at issue in this case were reporting in her Experian credit file.

4           **III. FACTS PERTAINING TO STEPHANIE LAGUNA**

5           14. On May 2, 2019, Ms. Laguna enrolled in CreditWorks<sup>SM</sup>. In order to successfully  
 6 enroll, Ms. Laguna had to complete two webforms. The first form required Ms. Laguna to enter  
 7 her personal information—*i.e.*, her name, address, phone number, and e-mail address. After she  
 8 did so, Ms. Laguna had to click the “Submit and Continue” button on the form to continue with the  
 9 enrollment process. A true and correct representation of the first webform as it would have  
 10 appeared when Ms. Laguna enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 7** to this Declaration.  
 11 Ms. Laguna clicked the “Submit and Continue” button, and was presented with a second form to  
 12 complete. I know this to be the case because she would not have been able to successfully enroll  
 13 in CreditWorks<sup>SM</sup> unless she clicked that button.

14           15. The second webform required Ms. Laguna to enter her social security number, date  
 15 of birth, and a username and password. Immediately below the boxes to enter and confirm her  
 16 password, was the following disclosure:

Password	Confirm Password
<p>By clicking "Submit Secure Order": I accept and agree to your <a href="#">Terms of Use Agreement</a>, as well as acknowledge receipt of your <a href="#">Privacy Policy</a> and <a href="#">Ad Targeting Policy</a>.</p> <p>I authorize ConsumerInfo.com, Inc., also referred to as Experian Consumer Services ("ECS"), to obtain my credit report and/or credit score(s), on a recurring basis to:</p> <ul style="list-style-type: none"> <li>• Provide my credit report (and/or credit score) to me for review while I have an account with ECS.</li> <li>• Notify me of other products and services that may be available to me through ECS or through unaffiliated third parties.</li> <li>• Notify me of credit opportunities and advertised credit offers.</li> </ul> <p>I understand that I may withdraw this authorization at any time by <a href="#">contacting ECS</a>.</p> <p style="text-align: center;"><b>Submit Secure Order</b></p>	

A true and correct representation of the second webform as it would have appeared when Ms. Laguna enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 8** to this Declaration. The phrase “**Terms of Use Agreement**” in the disclosure above was off-set in blue text and, if clicked, would have presented the consumer with the full text of the agreement. That is, the phrase “Terms of Use Agreement” in the disclosure was a full text hyperlink to the Terms of Use. Thus, before clicking the “Submit Secure Order” button, the consumer could view the entire text of the Terms of Use Agreement by clicking on the blue-highlighted hyperlink “**Terms of Use Agreement**. ” When a consumer clicked on the “**Terms of Use Agreement**” hyperlink, an additional window would open within the consumer’s web browser containing the entire text of the Terms of Use Agreement. Immediately below the disclosure containing the full-text hyperlink to the Terms of Use Agreement was a large purple button that reads: “Submit Secure Order.” The webform, the disclosure, and the “Submit Secure Order” button appeared on a single webpage. After entering her information, Ms. Laguna clicked the “Submit Secure Order” order button, thereby accepting and agreeing to the Terms of Use Agreement. I know this to be the case because she would not have been able to successfully enroll in CreditWorks<sup>SM</sup> unless she clicked that button. A true and correct copy of the Terms of Use that was in effect when Ms. Laguna enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 9** to this Declaration.

16. The Terms of Use Agreement that was in effect when Ms. Laguna enrolled in CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account, had a section entitled, “Amendments,” which advised Ms. Laguna that she would be bound by the then-current Terms of Use Agreement each time she “order[ed], access[ed], or use[d]” any of the Services or Websites described in the agreement. Since enrolling in CreditWorks<sup>SM</sup>, Ms. Laguna has continuously used her subscription service, including after the current version of the Terms of Use came into effect.

17. The Terms of Use Agreement that was in effect when Ms. Laguna enrolled in CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account, had a provision that allowed her to opt-out of changes to the contract’s arbitration clause. Based

1 upon Experian's business records, Experian has no record of Ms. Laguna ever rejecting any  
 2 amendment to the arbitration clause in the Terms of Use Agreement.  
 3

4       18. Before filing this lawsuit on May 4, 2021, Ms. Laguna continuously used her  
 5 CreditWorks<sup>SM</sup> subscription including, among other things, to obtain reports that would have shown  
 6 how the loans at issue in this case were reporting in her Experian credit file.

7 **IV. FACTS PERTAINING TO BECKY WITT**  
 8

9       19. On October 23, 2016, Ms. Witt enrolled in CreditWorks<sup>SM</sup>. In order to successfully  
 10 enroll, Ms. Witt had to complete two webforms. The first form required Ms. Laguna to enter her  
 11 personal information—*i.e.*, her name, address, phone number, and e-mail address. After she did  
 12 so, Ms. Laguna had to click the “Submit and Continue” button on the form to continue with the  
 13 enrollment process. A true and correct representation of the first webform as it would have  
 14 appeared when Ms. Witt enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 10** to this Declaration.  
 15 Ms. Witt clicked the “Submit and Continue” button, and was presented with a second form to  
 16 complete. I know this to be the case because she would not have been able to successfully enroll  
 17 in CreditWorks<sup>SM</sup> unless she clicked that button.

18       20. The second webform required Ms. Witt to enter her social security number, date of  
 19 birth, and a username and password. Immediately below the boxes to enter and confirm her  
 20 password, was the following disclosure:  
 21

Account Information		
Username: <input type="text"/>		
Password: <input type="password"/>	Confirm Password: <input type="password"/>	
By clicking "Submit Secure Order": I accept and agree to your <a href="#">Terms of Use Agreement</a> , as well as acknowledge receipt of your <a href="#">Privacy Policy</a> and <a href="#">Ad Targeting Policy</a> . I authorize ConsumerInfo.com, Inc., also referred to as Experian Consumer Services ("ECS"), to obtain my credit report and/or credit score(s), on a recurring basis to provide them to me for review while I have an account with ECS. I also authorize ECS to obtain and use the information I provide, and my credit report and/or credit score(s), on a recurring basis to notify me of credit opportunities and other products and services that may be available to me through ECS or through unaffiliated third parties. I understand that I may withdraw this authorization at any time by <a href="#">contacting ECS</a> .		
<input type="button" value="Submit Secure Order"/>		

A true and correct representation of the second webform as it would have appeared when Ms. Witt enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 11** to this Declaration. The phrase “**Terms of Use Agreement**” in the disclosure above was off-set in blue text and, if clicked, would have presented the consumer with the full text of the agreement. That is, the phrase “Terms of Use Agreement” in the disclosure was a full text hyperlink to the Terms of Use. Thus, before clicking the “Submit Secure Order” button, the consumer could view the entire text of the Terms of Use Agreement by clicking on the blue-highlighted hyperlink “**Terms of Use Agreement**. ” When a consumer clicked on the “**Terms of Use Agreement**” hyperlink, an additional window would open within the consumer’s web browser containing the entire text of the Terms of Use Agreement. Immediately below the disclosure containing the full-text hyperlink to the Terms of Use Agreement was a large purple button that reads: “Submit Secure Order.” The webform, the disclosure, and the “Submit Secure Order” button appeared on a single webpage. After entering her information, Ms. Witt clicked the “Submit Secure Order” order button, thereby accepting and agreeing to the Terms of Use Agreement. I know this to be the case because she would not have been able to successfully enroll in CreditWorks<sup>SM</sup> unless she clicked that button. A true and correct copy of the Terms of Use that was in effect when Ms. Witt enrolled in CreditWorks<sup>SM</sup> is attached as **Exhibit 12** to this Declaration.

21. On March 3, 2019, Ms. Witt activated the “Boost” feature on her account. In order to do so, Ms. Witt was required re-affirm her consent to the Terms of Use by clicking the “Let’s Go” button on the website:



A true and correct representation of the webform that would have been presented to Ms. Witt to add the “Boost” feature to her CreditWorks<sup>SM</sup> subscription is attached as **Exhibit 4** to this Declaration. The phrase “**Experian Terms of Use**” in the disclosure above was off-set in blue text and, if clicked, would have presented the consumer with the full text of the agreement. That is, the phrase “Experian Terms of Use” in the disclosure was a full text hyperlink to the Terms of Use. Thus, before clicking the “Let’s Go” button, the consumer could view the entire text of the Terms of Use by clicking on the blue-highlighted hyperlink “**Experian Terms of Use**.” When a consumer clicked on the “**Experian Terms of Use**” hyperlink, an additional window would open within the consumer’s web browser containing the entire text of the Terms of Use Agreement. Ms. Witt clicked on the “Let’s Go” button, thereby accepting and re-agreeing to the Terms of Use. I know this to be the case because she would not have been able to successfully add the “Boost” feature to her CreditWorks<sup>SM</sup> subscription unless she clicked that button. A true and correct copy of the Terms of Use that was in effect when Ms. Meeks added the “Boost” feature to her CreditWorks<sup>SM</sup> subscription is attached as **Exhibit 13** to this Declaration.

22. The Terms of Use Agreement that was in effect when Ms. Witt enrolled in CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account, had a section entitled, “Amendments,” which advised Ms. Witt that she would be bound by the

1 then-current Terms of Use Agreement each time she “order[ed], access[ed], or use[d]” any of the  
 2 Services or Websites described in the agreement. Since enrolling in CreditWorks<sup>SM</sup>, Ms. Witt has  
 3 continuously used her subscription service, including after the current version of the Terms of Use  
 4 came into effect.

5       23. The Terms of Use Agreement that was in effect when Ms. Witt enrolled in  
 6 CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account,  
 7 had a provision that allowed her to opt-out of changes to the contract’s arbitration clause. Based  
 8 upon Experian’s business records, Experian has no record of Ms. Laguna ever rejecting any  
 9 amendment to the arbitration clause in the Terms of Use Agreement.

10      24. Before filing this lawsuit on May 4, 2021, Ms. Witt continuously used her  
 11 CreditWorks<sup>SM</sup> subscription including, among other things, to obtain reports that would have shown  
 12 how the loans at issue in this case were reporting in her Experian credit file.

13      **V. FACTS PERTAINING TO JOSEPH DE LA CRUZ**

14      25. On August 28, 2020, Mr. De La Cruz enrolled in CreditWorks<sup>SM</sup>. In order to  
 15 successfully enroll, Mr. De La Cruz had to complete a single webform. A true and correct  
 16 representation of the webform as it would have appeared when Mr. De La Cruz enrolled in  
 17 CreditWorks<sup>SM</sup> is attached as **Exhibit 14** to this Declaration. The form required Mr. De La Cruz  
 18 to enter his personal information—*i.e.*, his name, address, phone number, and e-mail address. After  
 19 he entered his personal information, Mr. De La Cruz had to click the “Create Your Account” button  
 20 on the webform in order to enroll. Immediately below the boxes to enter his e-mail address and  
 21 password, was the following disclosure: “By clicking “Create Your Account”: I accept and agree  
 22 to your [Terms of Use Agreement](#), as well as acknowledge receipt of your [Privacy Policy](#) and [Ad](#)  
 23 [Targeting Policy.](#)” The phrase “[Terms of Use Agreement](#)” in the disclosure above was off-set in  
 24 blue text and, if clicked, would have presented the consumer with the full text of the agreement.  
 25 That is, the phrase “Terms of Use Agreement” in the disclosure was a full text hyperlink to the  
 26 Terms of Use. Thus, before clicking the “Submit Secure Order” button, the consumer could view  
 27 the entire text of the Terms of Use Agreement by clicking on the blue-highlighted hyperlink “[Terms](#)  
 28

1 of Use Agreement.” When a consumer clicked on the “Terms of Use Agreement” hyperlink, an  
 2 additional window would open within the consumer’s web browser containing the entire text of the  
 3 Terms of Use Agreement. Immediately below the disclosure was a large purple button that reads:  
 4 “Create Your Account.”

5 **Create Your Account**

6 Email Address This will be your username

7 Password

8 What is the main reason you visited Experian today?

9 \*Experian Boost results may vary. Some may not see improved scores or approval  
 odds. Not all lenders use Experian credit files, and not all lenders use scores  
 impacted by Experian Boost

10 Credit score calculated based on FICO® Score 8 model. Your lender or insurer may  
 use a different FICO® Score than FICO® Score 8, or another type of credit score  
 altogether. Learn more.

11 By clicking "Create Your Account": I accept and agree to your [Terms of Use](#)  
 Agreement, as well as acknowledge receipt of your [Privacy Policy](#) and [Ad](#)  
 Targeting Policy.

12 I authorize ConsumerInfo.com, Inc., also referred to as Experian Consumer  
 Services ("ECS"), to obtain my credit report and/or credit score(s), on a recurring  
 basis to:

- 13 • Provide my credit report (and/or credit score) to me for review while I have  
 an account with ECS.
- 14 • Notify me of other products and services that may be available to me  
 through ECS or through unaffiliated third parties.
- 15 • Notify me of credit opportunities and advertised credit offers.

16 I understand that I may withdraw this authorization at any time by [contacting](#)  
 ECS.

17

18 The webform, the disclosure, and the “Create Your Account” button appeared on a single webpage.  
 19 After entering his information, Mr. De La Cruz clicked the “Create Your Account” button, thereby  
 20 accepting and agreeing to the Terms of Use Agreement. I know this to be the case because she  
 21 would not have been able to successfully enroll in CreditWorks<sup>SM</sup> unless he clicked that button.  
 22 A true and correct copy of the Terms of Use that was in effect when Mr. De La Cruz enrolled in  
 23 CreditWorks<sup>SM</sup> is attached as **Exhibit 15** to this Declaration.

26. The Terms of Use Agreement that was in effect when Mr. De La Cruz enrolled in CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to her account, had a section entitled, “Amendments,” which advised Mr. De La Cruz that he would be bound by the then-current Terms of Use Agreement each time he “order[ed], access[ed], or use[d]” any of the Services or Websites described in the agreement. Since enrolling in CreditWorks<sup>SM</sup>, Mr. De La Cruz has continuously used his subscription service, including after the current version of the Terms of Use came into effect.

27. The Terms of Use Agreement that was in effect when Mr. De La Cruz enrolled in CreditWorks<sup>SM</sup>, and all subsequent amended Terms of Use Agreements applicable to his account, had a provision that allowed him to opt-out of changes to the contract's arbitration clause. Based upon Experian's business records, Experian has no record of Mr. De La Cruz ever rejecting any amendment to the arbitration clause in the Terms of Use Agreement.

28. Before filing this lawsuit on May 4, 2021, Mr. De La Cruz continuously used his CreditWorks<sup>SM</sup> subscription including, among other things, to obtain reports that would have shown how the loans at issue in this case were reporting in his Experian credit file.

I declare, under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct. Executed this 25th day of June, 2021, in Costa Mesa, California.

  
David W. Ladd